

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Owen Godshall	Team: Squad #15	CCRB Case #: 202000826	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 12/30/2019 2:49 AM	Location of Incident: 265 Pennsylvania Avenue	Precinct: 75	18 Mo. SOL 6/30/2021	EO SOL 2/14/2022	
Date/Time CV Reported Mon, 01/13/2020 9:29 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 01/31/2020 11:01 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Danny Cama	08924	939964	075 PCT
2. POM Rolex Roldan	25139	955408	075 PCT
3. POM Patrick Maher	22245	950802	075 PCT
4. POM Jonathan McMilleon	31712	935289	075 PCT
5. Officers			075 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Patrick Maher	Abuse: Police Officer Patrick Maher threatened § 87(2)(b) with the use of force.	
B.POM Jonathan McMilleon	Force: Police Officer Jonathan McMilleon used a taser against § 87(2)(b)	
C.POM Patrick Maher	Discourtesy: Police Officer Patrick Maher spoke discourteously to § 87(2)(b)	
D.POM Rolex Roldan	Force: Police Officer Rolex Roldan used a taser against § 87(2)(b)	
E.POM Jonathan McMilleon	Discourtesy: Police Officer Jonathan McMilleon spoke discourteously to § 87(2)(b)	
F.POM Patrick Maher	Force: Police Officer Patrick Maher used physical force against § 87(2)(b)	
G.POM Rolex Roldan	Force: Police Officer Rolex Roldan used physical force against § 87(2)(b)	
H.POM Danny Cama	Force: Police Officer Danny Cama used physical force against § 87(2)(b)	
I. Officers	Abuse: Officers forcibly removed § 87(2)(b) to the hospital.	
§ 87(2)(b)	§ 87(2)(g), § 87(4-b)	

Case Summary

On January 13, 2020, § 87(2)(b) filed this complaint with IAB via telephone. On January 31, 2020, it was received at the CCRB via IAB log #2020-2248.

In the early morning of December 30, 2019, § 87(2)(b) was assaulted on the subway by an unidentified individual. At around 2:49 a.m., after exiting the subway, he walked to FDNY EMS Station #39, located at 265 Pennsylvania Avenue in Brooklyn, to seek emergency assistance. EMS reported § 87(2)(b)'s complaint to the police. Several officers, including Police Officer Danny Cama, Police Officer Patrick Maher, Police Officer Jonathan McMilleon and Police Officer Rolex Roldan of the 75th Precinct, responded to the EMS station.

§ 87(2)(b) got into the driver's seat of an EMT's personal vehicle, which was parked in the EMS Station's garage. The officers attempted to remove § 87(2)(b) from the vehicle. Police Officer Maher pointed a Taser at § 87(2)(b) but did not fire it (**Allegation A: Abuse of Authority – Threat of force**, § 87(2)(g)). Police Officer McMilleon then fired his Taser at § 87(2)(b) (**Allegation B: Force – Nonlethal restraining device**, § 87(2)(g)). Police Officer Maher told § 87(2)(b) "Get out of the fucking car," and, "Give me your fucking hand" (**Allegation C: Discourtesy – Word**, § 87(2)(g)). Police Officer Roldan then fired his Taser at § 87(2)(b) (**Allegation D: Force – Nonlethal restraining device**, § 87(2)(g)). Police Officer McMilleon then told § 87(2)(b) "Sir, get out of the fucking car" (**Allegation E: Discourtesy – Word**, § 87(2)(g)). Police Officer Maher and Police Officer Roldan also struck § 87(2)(b) several times (**Allegations F and G: Force – Physical force**, § 87(2)(g)). The four officers then pulled § 87(2)(b) out of the vehicle, onto the floor of the garage and handcuffed him. Police Officer Cama punched and kicked § 87(2)(b) several times while doing so (**Allegations H: Force – Physical force**, § 87(2)(g)). The officers then loaded § 87(2)(b) into an ambulance and transported him to Kings County Hospital, where he was treated as an emotionally disturbed person (EDP) (**Allegation I: Abuse of Authority – Forcible removal to the hospital**, § 87(2)(g)). § 87(2)(b) was not arrested or issued a summons during this incident.

The investigation obtained clips of body-worn camera (BWC) footage from several officers, including Police Officer Maher, Police Officer McMilleon and Police Officer Roldan. The videos were attached in IAs #34-36 and #71-82 (Board Review #01-12) and summarized in IA #55 (Board Review #13).

The investigation determined that Police Officer Cama failed to record this incident using his BWC.

Findings and Recommendations

Allegation (A) Abuse of Authority: Police Officer Patrick Maher threatened § 87(2)(b) with the use of force.

Allegation (B) Force: Police Officer Jonathan McMilleon used a taser against § 87(2)(b)

Allegation (D) Force: Police Officer Rolex Roldan used a taser against § 87(2)(b)

§ 87(2)(b) was interviewed by the CCRB on April 16, 2020. Police Officer McMilleon and Police Officer Maher were interviewed by the CCRB on December 3, 2020. Police Officer Cama and Police Officer Roldan were interviewed by the CCRB on February 22, 2021.

§ 87(2)(b) stated that he suffered a concussion during the course of this incident. He has experienced sporadic memory loss since the incident. As a result of this condition, § 87(2)(b)

estimated that his recollection of the incident was “about 85%.” § 87(2)(b) also smoked a marijuana cigarette roughly two hours before this incident. He denied that he was intoxicated or impaired during the incident. § 87(2)(b) stated that the incident occurred on December 29, 2019. The investigation determined that it occurred on December 30, 2019.

It is undisputed that § 87(2)(b) traveled to EMS Station #39 to complain about a past assault. EMTs called 911 to report § 87(2)(b)'s complaint. Several officers, including Police Officer McMilleon, responded to the EMS station. § 87(2)(b) gained access to one of the EMTs' private vehicles, sitting in the driver's seat. Police Officer McMilleon and several other officers removed § 87(2)(b) from the vehicle.

§ 87(2)(b) stated that he was assaulted by an unknown individual while riding the subway. After he got off the subway, he went home before deciding to go to the 75th Precinct stationhouse in-person to file a criminal complaint. On the way to the stationhouse, he passed the EMS station. He decided to report the assault there instead of the precinct stationhouse because it was closer. § 87(2)(b) spoke to an unidentified EMT, who called the police to report the assault. After the EMT filed the report, § 87(2)(b) noticed the EMT's personal vehicle, an SUV, parked in the EMS station's garage. He told the EMT that he was thinking of buying a similar vehicle and asked if he could sit in the SUV's driver's seat to see what it felt like. The EMT allowed § 87(2)(b) into the vehicle. § 87(2)(b) sat in the driver's seat for several minutes with both hands on the steering wheel. The SUV was off and § 87(2)(b) did not have the keys. Several minutes later, a group of officers, including Police Officer McMilleon, entered the stationhouse. The officers immediately ordered him to get out of the SUV. Before he had a chance to react, the officers pulled him out of the vehicle. § 87(2)(b) denied that he took any actions to prevent officers from removing him from the vehicle, explaining that he did not have time to do anything before the officers pulled him out. § 87(2)(b) did not allege that any of the officers drew, pointed, used or threatened to use a Taser during the incident.

Police Officer McMilleon and Police Officer Maher stated that they traveled to the stationhouse in response to the reported assault. They were initially the only officers present. When they met with § 87(2)(b) and asked him about the assault, he ignored their questions. He appeared agitated. § 87(2)(b) started speaking irrationally, making unclear statements about “the devil.” Police Officer McMilleon further stated that § 87(2)(b) was growling and screaming “like he was possessed.” § 87(2)(b)'s erratic behavior led Police Officer McMilleon to suspect that he was on drugs. Police Officer Maher suspected that § 87(2)(b) was having a psychiatric episode.

After a minute or two, § 87(2)(b) then walked into the EMS station's garage and got into the front seat of the SUV. The SUV's doors were unlocked. An unidentified EMT told the officers that the SUV was his personal vehicle. § 87(2)(b) grabbed the SUV's steering wheel. He continued shouting about “the devil” while inside the vehicle. The officers did not know if § 87(2)(b) had the SUV's keys. § 87(2)(b) did not turn on the SUV's engine. Both officers were concerned that § 87(2)(b) posed a threat to their safety and the safety of those around them while he was inside the vehicle, explaining that they were concerned that he might run somebody over if he managed to drive it. The officers attempted to pull § 87(2)(b) out of the vehicle by his arms but could not get him loose. Police Officer Maher applied handcuffs to § 87(2)(b)'s left wrist but could not connect it to his right wrist. The officers requested assistance from other units over the radio.

Police Officer Maher stated that he may have drawn his Taser at some point during the interaction, though he was not certain. He did not use it, noting that he likely would have struck himself with the Taser because he was still holding § 87(2)(b)'s handcuffs.

Police Officer McMilleon acknowledged using a Taser. He decided to use it because he and Police Officer Maher were unable to pull § 87(2)(b) from the SUV. He verbally warned § 87(2)(b) that he was going to use the Taser. He fired the Taser from about three or four feet away, aimed at the center of § 87(2)(b)'s body. He fired the Taser's prongs, but they did not appear to latch onto § 87(2)(b)'s body because he was wearing a coat. § 87(2)(b) had no apparent response to the use of the Taser. Police Officer McMilleon attempted to load a second cartridge into his Taser. Before he could do so, Police Officer Roldan stepped in and fired his Taser. His Taser did not have any apparent effect on § 87(2)(b) either. Neither Police Officer McMilleon nor any other officers used their Tasers after that.

Police Officer Roldan and Police Officer Cama stated that they responded to Police Officer Maher's and Police Officer McMilleon's request for assistance. When they arrived on-scene, they found Police Officer Maher and Police Officer McMilleon trying to pull § 87(2)(b) from the SUV by his arms. Police Officer Roldan stated that § 87(2)(b) prevented the officers from moving him by waving his arms. Police Officer Cama stated that § 87(2)(b) gripped the SUV's steering wheel. Both officers stated that § 87(2)(b) was shouting something about "the devil." They both tried to help them pull § 87(2)(b) by his arms.

When they failed to pull him out, one of the other officers fired a Taser at § 87(2)(b). Police Officer Roldan did not recall which officer fired first. He did not recall where the Taser struck § 87(2)(b). The Taser had no apparent effect on § 87(2)(b). Police Officer Roldan then used his Taser on § 87(2)(b) as well, firing about a minute after the first officer. He did so in order to overcome § 87(2)(b)'s resistance and bring him under control. Police Officer Roldan stood about three to four feet from § 87(2)(b) and pointed the Taser at the center of § 87(2)(b)'s body. He stated aloud that he was going to use his Taser to warn the other officers. He then fired it once at § 87(2)(b)'s body. He did not recall where the Taser's prongs struck § 87(2)(b) or if they latched onto him. The Taser had no apparent effect on § 87(2)(b). Police Officer Roldan did not see any other officers draw or use their Tasers.

Police Officer Cama did not recall seeing any officers draw, point or use a Taser during the incident.

BWC footage was obtained from numerous officers, including Police Officer Maher, Police Officer McMilleon and Police Officer Roldan (Board Review #01-12). All of the videos consistently show that officers spent several minutes attempting to pull § 87(2)(b) from the SUV, but that § 87(2)(b) refused to exit. He gripped the vehicle's steering wheel throughout the encounter, preventing officers from moving him. § 87(2)(b) repeatedly shouted "I'm not going to see the devil" throughout the incident.

Police Officer Maher's BWC footage is attached in IA #71 (Board Review #01). At the start of the video, there is no sound. Police Officer Maher and several other uniformed officers stand by the open driver's door of an SUV. § 87(2)(b) is sitting in the front seat. The officers pull § 87(2)(b)'s left arm out of the vehicle and apply a handcuff to his left wrist. § 87(2)(b) grips the steering wheel with his right arm. The officers pull on § 87(2)(b)'s left arm, but § 87(2)(b) braces himself inside the SUV and remains in place. At 0:18 into the recording, Police Officer Maher draws a Taser in his left hand and points it at § 87(2)(b). The Taser's red targeting laser is visible in the middle of § 87(2)(b)'s chest. At 0:25 into the recording, Police Officer McMilleon points a Taser at § 87(2)(b). Police Officer Maher puts his away. He does not draw it again. At 0:30 into the recording, the sound begins. Officers tell § 87(2)(b) to get out of the vehicle. § 87(2)(b) repeatedly shouts, "I'm not going to see the devil!" § 87(2)(b) continues making similar statements throughout the recording.

Police Officer McMilleon's BWC footage is attached in IA #72 (Board Review #02). It is consistent with Police Officer Maher's footage. At 0:24 into the recording, Police Officer McMilleon draws his Taser and points it at § 87(2)(b)'s right shoulder. At 0:30 into the recording, Police Officer McMilleon triggers his BWC. The sound begins. § 87(2)(b) shouts that he is "not going to see the devil." Police Officer McMilleon announces that he is going to "hit him." At 0:52 into the recording, he fires the Taser's darts at § 87(2)(b). The wires appear to be attached to § 87(2)(b)'s coat but it is unclear if they make contact with § 87(2)(b)'s body. § 87(2)(b) shouts, "I don't give a fuck!" He does not move.

Police Officer Roldan's BWC footage is attached in IA #73 (Board Review #03). It is consistent with the other officers' footage. At 0:30 into the recording, he enters the EMS station, where Police Officer McMilleon and Police Officer Maher are standing next to the SUV. § 87(2)(b) is in the driver's seat. He shouts that he is "not going to see the devil." Police Officer Maher tells Police Officer Roldan, "EDP, we gotta rip him out." At 0:35 into the recording, Police Officer McMilleon holds out his Taser and fires it into § 87(2)(b)'s right shoulder. At 0:50 into the recording, Police Officer Roldan points his Taser at § 87(2)(b)'s right side and fires. It is unclear whether the Taser wires attach to § 87(2)(b)'s body. § 87(2)(b) leans into the SUV, away from the officers.

Police Officer McMilleon prepared a TRI report to document the incident (Board Review #14). It stated that § 87(2)(b) actively resisted officers by pushing them and wrestling with them. Police Officer Maher in turn used a conducted energy weapon and grappled with § 87(2)(b) to overcome this resistance and to protect himself and other officers.

Police Officer Roldan also prepared a TRI report (Board Review #14). It also stated that § 87(2)(b) actively resisted officers by pushing them and wrestling with them. To overcome this resistance, he used a conducted energy weapon and wrestled with § 87(2)(b).

§ 87(2)(g)
[REDACTED]

NYPD Patrol Guide procedure 221-08 states that conducted energy weapons (CEWs) such as Tasers should only be used against persons who are actively resisting, exhibiting active aggression or to prevent individuals from physically injuring themselves or the people around them. Active resistance is defined as physically evasive movements that defeat an officer's attempts to control a person. Active aggression is defined as threat or overt act of an assault, either physical or verbal, coupled with the present ability to carry out such a threat or assault. Factors to consider when evaluating whether the use of a CEW is appropriate include the actions taken by the subject, the immediacy of the perceived threat that they pose, and whether they are actively resisting. Officers are advised to offer a verbal warning before using a CEW if it is practical to do so under the circumstances. Officers are also advised to aim the Taser at the center of the target's mass (Board Review #15).

§ 87(2)(g)
[REDACTED]

§ 87(2)(g)

Allegation (C) Discourtesy: Police Officer Patrick Maher spoke discourteously to § 87(2)(b)

Allegation (E) Discourtesy: Police Officer Jonathan McMilleon spoke discourteously to

§ 87(2)(b)

made no mention of any officers using profanity towards him during the incident.

Police Officer Maher and Police Officer McMilleon both stated that they used profanity towards § 87(2)(b) during the incident. Police Officer Maher stated that while he tried to pull § 87(2)(b) from the vehicle, he told § 87(2)(b) “Get out of the fucking car.” Police Officer McMilleon believed that he used the word “fuck” while addressing § 87(2)(b) but did not recall the specific phrasing that he used. He noted that, at the time, he repeatedly ordered § 87(2)(b) to get out of the vehicle and put his hands in the air.

Police Officer Cama and Police Officer Roldan did not recall hearing any officers use profanity during this incident.

Police Officer Maher’s BWC footage is attached in IA #71 (Board Review #01). At 1:10 into the recording, shortly after Police Officer McMilleon deploys his Taser, Police Officer Maher tells § 87(2)(b) “Get the fuck out of the car.” He and several other officers eventually pull § 87(2)(b) out of the vehicle and bring him to the ground, where they wrestle with him. At 2:10 into the recording, Police Officer Maher states, “Give me your fucking hand.”

Police Officer McMilleon’s BWC footage is attached in IA #72 (Board Review #02). At 1:08 into the recording, Police Officer Roldan fires his Taser at § 87(2)(b). Immediately afterwards, Police Officer McMilleon states, “Sir, get out of the fucking car.”

NYPD Patrol Guide procedure 200-02 states that the NYPD is committed to treating citizens with compassion, courtesy, professionalism and respect while rendering police services (Board Review #16).

Officers may use limited profanity towards civilians as a means of gaining control of a dynamic situation. They may not use profanity when it serves no legitimate law enforcement purpose and is intended only to belittle or insult a civilian. PD v. Pichardo, DAO-DCT case #2015-15012 (Board

Review #17).

§ 87(2)(g)

Allegation (F) Force: Police Officer Patrick Maher used physical force against § 87(2)(b)

Allegation (G) Force: Police Officer Rolex Roldan used physical force against § 87(2)(b)

§ 87(2)(g), § 87(2)(b)

§ 87(2)(b) engaged in a prolonged struggle with the officers when they attempted to pull him out of the front seat of the SUV. Police Officer McMilleon and Police Officer Roldan used their tasers against § 87(2)(b) during the struggle.

§ 87(2)(b) stated that he suffered various contusions and abrasions on his body as well as a laceration over his left eye when he was assaulted on the subway. Later on, while at the EMS station, § 87(2)(b) entered the EMT's SUV and sat in the driver's seat for several minutes by himself with his hands on the steering wheel. As soon as the officers arrived, they ordered him to exit the SUV. Before he could comply, the officers grabbed his arms and pulled him out of the vehicle. § 87(2)(b) denied that he took any actions to prevent officers from removing him from the vehicle, explaining that he did not have time to do anything before the officers pulled him out. § 87(2)(b) did not allege that he suffered any injuries as a result of this force. He did not allege that any of the officers struck him before removing him from the SUV.

Police Officer Maher stated that § 87(2)(b) held onto the steering wheel with both hands while sitting in the SUV. He refused to let go while officers pulled on his arms. Police Officer Maher tried to get § 87(2)(b) to loosen his grip by striking § 87(2)(b) on the hands. Police Officer Maher struck § 87(2)(b)'s hands. He did not recall if he struck § 87(2)(b) with an open or closed fist. § 87(2)(b) did not release the steering wheel. Later, after Police Officer McMilleon and Police Officer Roldan used their Tasers, Police Officer Maher struck § 87(2)(b) again on his hands. Another officer, identified by the CCRB as Police Officer Roldan, then entered the SUV and tried to push § 87(2)(b) out of the vehicle from the inside. He did not recall any other officers striking § 87(2)(b) while he was in the vehicle.

Police Officer Roldan also stated that § 87(2)(b) was gripping the steering wheel while inside the SUV. After Police Officer Roldan used his Taser, he went around to the front passenger's seat of the SUV and got inside. He tried unsuccessfully to pull § 87(2)(b)'s hands off the steering wheel. He then struck § 87(2)(b) on the hand multiple times with a baton. Police Officer Roldan did not recall how many times he struck § 87(2)(b). § 87(2)(b) released his hands once Police Officer Roldan struck him. Police Officer Roldan did not use any further force.

Police Officer McMilleon and Police Officer Cama did not recall any officers using physical force against § 87(2)(b) while he was inside the vehicle.

Police Officer Maher's BWC footage is attached in IA #71 (Board Review). At 1:20 into the recording, shortly after Police Officer Roldan discharges his Taser, Police Officer Maher and Police Officer McMilleon pull on § 87(2)(b)'s arms. § 87(2)(b) holds both hands on the steering wheel. Police Officer Maher punches § 87(2)(b) four times on his right arm.

Police Officer Roldan's BWC footage is attached in IA #73 (Board Review). After discharging his Taser, Police Officer Roldan walks around to the passenger's side of the SUV and enters the front passenger's seat. § 87(2)(b) has both his hands on the steering wheel. At 1:10 into the recording, Police Officer Roldan punches § 87(2)(b)'s right hand with his own right hand while telling him, "Get out!" Police Officer Roldan is holding a baton in his right hand as he strikes § 87(2)(b) but the baton is not extended and does not appear to make contact with § 87(2)(b)'s hand. Police Officer Roldan strikes § 87(2)(b)'s hand eleven times before § 87(2)(b) releases his grip on the wheel. The other officers then pull § 87(2)(b) out through the driver's door.

Police Officer Maher prepared a TRI report to document the incident (Board Review #14). It stated that § 87(2)(b) actively resisted officers by pushing them and wrestling with them. Police Officer Maher in turn grappled with § 87(2)(b) to overcome this resistance and to protect himself and other officers.

Police Officer Roldan also prepared a TRI report (Board Review #14). It also stated that § 87(2)(b) actively resisted officers by pushing them and wrestling with them. To overcome this, he used a conducted energy weapon and wrestled with § 87(2)(b).

§ 87(2)(g)

While he was holding the baton in his hand, the baton itself did not make contact with § 87(2)(b)'s body.

NYPD Patrol Guide procedure 221-01 states that officers may use physical force when it is reasonable to ensure the safety of an individual, to protect life, or to place or keep a person in custody. Officers will only use the reasonable amount of force necessary to bring a person into custody. Factors to consider when evaluating the use of force include the actions taken by the subject, the duration of the action, the immediacy of the perceived threat they post, and whether the subject is actively resisting (Board Review #18).

§ 87(2)(g)

Allegation (H) Force: Police Officer Danny Cama used physical force against § 87(2)(b)

It is § 87(2)(b) that the gathered officers eventually overcame § 87(2)(b)'s resistance and pulled him out of the SUV. § 87(2)(b), § 87(2)(g)

Once § 87(2)(b) was out of the vehicle, the officers forced him onto the ground, where they restrained § 87(2)(b).

§ 87(2)(b) stated that he suffered various contusions and abrasions on his body as well as a laceration over his left eye when he was assaulted on the subway. Later, once the officers removed § 87(2)(b) from the SUV, they brought him to the ground by tripping him. He landed on his left side. The officers had applied handcuffs to his right wrist as they pulled him out of the vehicle. The officers held on to his right wrist as he fell. As such, the arm was held up in an extended position

while the rest of his body was on the ground. The officers then pulled his left wrist up to meet his right wrist and handcuffed both wrists. The officers then pulled § 87(2)(b)'s coat over his head, obstructing his vision. He felt several blows to his head and body. He initially stated that the officers "put feet" to him, but later stated that he did not know if the blows were punches or kicks. He could not see which officers struck him. The blows knocked § 87(2)(b) unconscious. He did not know how many times the officers struck him. § 87(2)(b) did not allege that he suffered any injuries as a result of this force.

Police Officer Cama stated that after he and the other officers forced § 87(2)(b) to the ground outside the SUV, they tried to place him in handcuffs. § 87(2)(b) resisted the officers by tensing his arms at his side and refusing to give them control of his hands. The officers told § 87(2)(b) to give up his hands. Police Officer Cama did not recall § 87(2)(b) saying anything in response. Police Officer Cama and the other officers held § 87(2)(b)'s legs down and tried to pull his arms behind his back. When they were unable to control his hands, Police Officer Cama stood up and kicked § 87(2)(b) several times on the side of his torso. He did so hoping that it would encourage § 87(2)(b) to become compliant. He did not recall how many times he kicked § 87(2)(b). No other officers kicked or otherwise struck § 87(2)(b). § 87(2)(b) continued resisting after Police Officer Cama kicked him. The officers resumed pulling on § 87(2)(b)'s arms, eventually gaining control of them and handcuffing him.

Police Officer McMilleon, Police Officer Maher and Police Officer Roldan stated that they did not recall seeing any officers kick § 87(2)(b) while he was on the ground.

A clip of Police Officer Roldan's BWC footage is attached in IA #75 (Board Review #05). This clip begins after § 87(2)(b) was brought to the ground. Several uniformed officers are seen leaning down over § 87(2)(b) trying to bring his arms behind his back. Several officers tell § 87(2)(b) to place his hands behind his back. At 0:35 into the recording, Police Officer Cama stands up. He kicks with his left foot five times. The camera does not show the lower half of his body, so it does not show where these kicks land. Five thumping noises are heard as he kicks.

Police Officer Cama prepared a TRI report to document this encounter (Board Review #14). It states that § 87(2)(b) resisted officers by pushing them and grappling with them. Police Officer Cama used a forcible takedown and foot strikes to overcome this resistance and to defend himself and the other officers.

NYPD Patrol Guide procedure 221-01 states that officers may use physical force when it is reasonable to ensure the safety of an individual, to protect life, or to place or keep a person in custody. Officers will only use the reasonable amount of force necessary to bring a person into custody. Factors to consider when evaluating the use of force include the actions taken by the subject, the duration of the action, the immediacy of the perceived threat they post, and whether the subject is actively resisting (Board Review #18).

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(g)

Allegation (I) Abuse of Authority: Officers forcibly removed § 87(2)(b) to the hospital.

§ 87(2)(g)

§ 87(2)(b) stated that the officers forced him to the ground and struck him, causing him to lose consciousness. When he woke up, he found that he was riding in an ambulance. He was in a daze due to the force used against him. The ambulance drove him to § 87(2)(b) Hospital. § 87(2)(b) did not recall what happened to him at the hospital. He believed that he received some sort of treatment but did not recall what it might have been. He did not know how he left the hospital or returned home afterwards. An unidentified person told § 87(2)(b) that he “eloped” from the hospital, but he did not recall if this was true.

Due to the coronavirus pandemic, the investigation was unable to obtain a HIPAA medical release form from § 87(2)(b). As such, the investigation could not obtain copies of his medical records.

Police Officer McMilleon, Police Officer Maher, Police Officer Cama and Police Officer Roldan all stated that § 87(2)(b) was hospitalized because he was emotionally disturbed. They believed that he was emotionally disturbed because he shouted nonsensical remarks about the “devil” throughout the encounter. The officers denied that he was hospitalized for any other reason.

Police Officer Ryan Grabowski of the 75th Precinct prepared an AIDED report for § 87(2)(b) (Board Review #19). It states that § 87(2)(b) was hospitalized as an EDP after he became irate and violent towards officers at an EMS station. He was transported by ambulance to § 87(2)(b) Hospital. § 87(2)(b) later admitted to using PCP.

NYPD Patrol Guide procedure 221-13 defines emotionally disturbed persons (EDP) as individuals who appears to be mentally ill or temporarily deranged and is conducting themselves in a manner which a police officer reasonably believes is likely to result in serious injury to themselves or others. If an EDP’s behavior constitute an immediate threat, officers may take reasonable measures to terminate or prevent this behavior (Board Review #20).

§ 87(2)(g)

§ 87(2)(g), § 87(4-b)

§ 87(2)(g), § 87(4-b)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (Board Review #23).
- Police Officer Maher has been a member of the service for nine years and has been listed as a subject officer in three other CCRB complaints and three allegations § 87(2)(g)
- Police Officer McMilleon has been a member of the service for sixteen years and has been listed as a subject officer in five other CCRB complaints and five allegations § 87(2)(g)
- Police Officer Roldan has been a member of the service for seven years. This is the first CCRB complaint in which he has been identified as a subject officer.
- Police Officer Cama has been a member of the service for fifteen years and has been listed as a subject officer in eight other CCRB complaints and eleven allegations § 87(2)(g)

Mediation, Civil and Criminal Histories

- This complaint was ineligible for mediation.
- As of March 10, 2021, § 87(2)(b) has not filed a Notice of Claim regarding this incident with the NYC Office of the Comptroller.
- § 87(2)(b)

Squad No.: 15

Investigator:	<u>Owen Godshall</u>	<u>Inv. Owen Godshall</u>	<u>03/15/2021</u>
	Signature	Print Title & Name	Date

Squad Leader:	<u>Simon Wang</u>	<u>IM Simon Wang</u>	<u>05/14/21</u>
	Signature	Print Title & Name	Date

Reviewer:	<u></u>	<u></u>	<u></u>
	Signature	Print Title & Name	Date